

## INITIATIVE 200 - NEW BATTLE BEGINS: INTERPRETING LAW

*Seattle Times, The (WA) (Published as THE SEATTLE TIMES) - November 4, 1998*

Now that the **Initiative 200** campaign is over, the battle begins.

Across the state, government attorneys and policy-makers today began interpreting how I-**200**'s ban on race and gender preferences will be turned into law.

It is an exercise they have 30 days to complete, and it is almost certain to bring lawsuits.

Jubilant supporters of the measure declared that the voters' overwhelming approval of I-**200** gave them a mandate. They already have begun to map out the next steps in their national crusade against affirmative action.

The measure won the support of some 58 percent of the voters, a much higher margin than predicted by pre-election polls. Support for it was so widespread, I-**200** won every county in the state except King.

Washington is the second state in the country to approve a ballot measure that bans preferential treatment based on race, ethnicity and gender in state- and local-government employment, contracting and education.

The campaign, which started as a little-known petition drive 18 months ago, grew to a national issue followed by civil-rights advocates as well as foes of affirmative action.

Those who fought I-**200** had seen support for the measure slide in published polls from 70 percent earlier this year to as little as 50 percent a week ago. But in the end, the vote for the measure - nearly 60 percent - was much larger than most of the opponents ever imagined.

The No!**200** campaign included much of the business and political establishment in the state, and raised more than \$1 million, four to five times as much as the I-**200** campaign.

Much of that came from local corporations such as Boeing, Microsoft and Weyerhaeuser. The effort also got a boost from national groups such as the National Association for the Advancement of Colored People.

At a somber No!**200** headquarters in Seattle last night, Gov.

Gary Locke expressed disappointment but attempted to sound upbeat about his commitment to diversity.

He also laid the groundwork for the battles over making law of the measure's ban on race- and gender-based affirmative action.

"We will comply with the law, of course. But we will not be deterred from making a state that is equal

and just," said Locke, who took a high-profile role in the campaign against I-**200**.

"We all knew it was an uphill battle with this ballot title that sounded so motherhood and apple pie," Locke said, echoing other opponents' complaint that they lost because of a misleading ballot title.

The ballot title mentioned only the elimination of preferences, to which voters have long been opposed, polls have shown. The title did not mention affirmative action, which has enjoyed broad support in the same polls.

With that complaint, Locke and others conceded that the battle had been lost in April 1997, when opponents unsuccessfully sued to change the ballot title.

However, while many I-**200** foes last night were blaming the loss on voter confusion, a Seattle Times poll done on the eve of the election indicated that most voters understood the gist of the measure.

Locke also took aim at what an aide called the "sugarcoating" of I-**200** by its supporters. The governor plans to see if that "sugarcoating turns into cotton candy," said press aide Keith Love.

Locke noted that during the campaign, I-**200** supporters repeatedly said the measure would not end all affirmative action, nor would it eliminate outreach and recruitment of minorities and women.

"I am going to hold them to their word," he said. But he predicted they would change their tune, as he said Proposition 209 supporters had done in California.

#### Plans for other states

Meanwhile, at a party at the Doubletree Inn in Bellevue, I-**200** chairman John Carlson took great pleasure in the overwhelming victory. He was joined by Ward Connerly, the California businessman whose organizations bankrolled I-**200** and who led the successful campaign for Proposition 209 in California.

"The size of tonight's victory will undoubtedly inspire legislation and initiatives and referenda in other states. This is a movement whose time has come," Carlson said. "It's not just for Washington or California. It's for the whole United States."

Connerly, calling the victory a "joyous occasion," also hinted at the national implications of the vote.

"We're saying to every child - Asian, black, white, Latino - this movement is for you. The promise of equality is a promise for all Americans," he said.

Earlier, in an interview in the hallway outside his 10th-floor room at the hotel, Connerly was more specific about plans to introduce similar legislation in other states.

"The logical next place is Houston, because there the mayor and the council changed the language which effectively contributed to the demise of that **initiative**, and we're just waiting now for the court to reset the date," he said.

Houston voters in 1997 rejected a ballot measure modeled on Proposition 209 after the City Council

changed the ballot title to say that it would eliminate affirmative action for minorities and women. A judge earlier this year ruled that the change in language was illegal and threw out the results.

Connerly also said Michigan was a "hot bed" for the issue and - along with Nebraska, Oklahoma and Florida - was a logical next stop for the movement.

Times draws criticism

Carlson and Connerly also criticized The Seattle Times for publisher Frank Blethen's campaign against the **initiative**. Blethen donated more than \$162,000 of free advertising in The Times to urge voters to reject I-**200**.

"It's also saying to Mr. Blethen and to Governor Locke, a pox on your house for trying to mislead us," Carlson said.

The Attorney General's Office today began to take a close, hard look at the language of I-**200** to determine how it will affect the affirmative-action laws, rules and programs created by the state over the past three decades.

Two weeks ago, the state's lawyers issued a 30-page memo raising nine key legal questions, including the most basic question of all - the definition of "preferential treatment."

The memo also noted that I-**200** becomes a law like other laws - unlike Proposition 209, which became part of the California state constitution. That means Washington must decide which laws prevail, the new one created by I-**200** or conflicting older ones.

Those are the questions that the state must answer in the next 30 days, when I-**200** becomes law.

Carlson said he will not leave the job up to Locke and other opponents who run major public agencies such as local governments.

"We are going to form an organization to monitor compliance," he said. "We'll be there to make sure the **initiative** is implemented."